

MAR 21 2006

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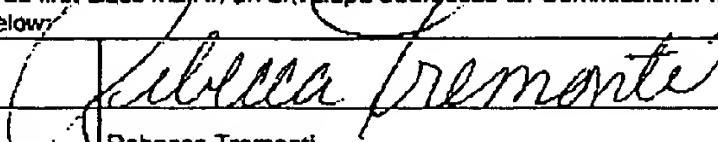
TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/900,663
	Filing Date	07/06/2001
	First Named Inventor	Michael J. Shotey
	Art Unit	3523
	Examiner Name	Jarrett, Scott
Total Number of Pages in This Submission	Attorney Docket Number	1001.014

ENCLOSURES (Check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Booth Udall, PLC		
Signature			
Printed name	Kenneth C. Booth		
Date	03/21/2006	Reg. No.	42,342

CERTIFICATE OF TRANSMISSION/MAILING

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Typed or printed name	Rebecca Tremonti
Date	03/21/2006

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MAR 21 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MICHAEL J. SHOTEY

Docket No. 1001.014

Serial No.: 09/900,663

Group Art Unit: 3623

Filed: 07/06/2001

Examiner: JARRETT, SCOTT

Title: MARKETING DATA COLLECTION
SYSTEMS AND METHOD

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following is responsive to the Interview Summary mailed March 14, 2006. The Interview was held on March 2, 2006 and the period for submission of this Statement is one month from the Interview date.

Applicants have elected to file a Statement due to some apparent misunderstanding on the part of the Examiner as stated in the Examiner's Interview Summary Mailed March 14, 2006.

I HEREBY CERTIFY THAT THE CORRESPONDENCE TO WHICH THIS STATEMENT IS AFFIXED IS BEING DEPOSITED VIA FACSIMILE TO 571-273-8300; COMMISSIONER FOR PATENTS, P.O. Box 1450, ALEXANDRIA, VA 22313-1450

ON: March 21, 2006

SIGNED: 

Rebecca Tremonti

Docket No. 1001.014

The Interview Summary states:

“Applicant stated that the delay in re-scheduling the interview was due to the Applicants locating and discussing the invention, as disclosed in applications no. 09/900663 and 10/741984, with the former CEO as well as the chief technologist of CasioSoft, wherein CasioSoft’s product(s) formed the basis of the final rejection of application no. 09/90063 dated December 9, 2005. Applicant’s representative further stated their intention to collect affidavits from the former CasioSoft employees.”

“Examiner requested Applicants provide any and all information related subject matter disclosed in the currently filed applications gleaned and/or collected as a result of their conversations/discussions with CasioSoft and/or its employees (current or past).”

See Examiner’s Interview, Continuation Sheet p. 3.

In clarification, Applicant’s attorney (undersigned) told the Examiner that the delay in filing the response was initially caused by Applicant trying to determine how to reclaim the priority date apparently missed by the attorneys who originally filed the case and missed the intended claim of priority. The Examiner was kind enough to assist us in learning how to ensure that the priority was properly claimed. The balance of the delay was due to Applicant’s belief that the Examiner was reading too much into the statements in the articles found by the Examiner relating to CasioSoft and Applicant’s attempts to locate the former CEO of CasioSoft (Daryl Scott) and the former Director of Engineering for CasioSoft (Gordon Taras) to discuss the CasioSoft technology. I was unable to locate Mr. Taras, but may be able to track him down through Mr. Scott – the question was not asked whether Mr. Scott knew how to reach Mr. Taras.

Docket No. 1001.014

Because the Examiner has requested all information "Gleaned" from my brief discussion with former CasioSoft employees, I provide the following summary of my discussion with Mr. Scott:

On February 24, 2006, I held a brief (less than 10 minutes) telephone call with Daryl Scott, former CEO of CasioSoft. In the telephone call, I introduced myself as working with TayMac Corporation and that I was researching the former CasioSoft system as a way to track merchandisers in their work. Mr. Scott indicated that the company sold the technology in about 2002-2003 and did not exist any more. I told him I understood that and asked him how the system tracked whether or not the merchandisers entered the stores. He indicated that the merchandisers entered, by hand, a reference number for the store they were entering and indicated manually that they were starting data capture for that store. I asked him whether a merchandiser could sit in the parking lot or at home and simply enter the store number to start a session and he said yes. I asked him if the CasioSoft system had anything within the store that required the merchandiser to log in or scan with their hand-held unit to ensure they were actually at the store and he said that the CasioSoft system did not have any feature like that before CasioSoft sold the technology. I thanked him for his time and asked him if I could contact him later if I had any questions. He said I could. I have not yet done so.

My purpose in contacting CasioSoft was because I disagreed with the Examiner's assertions that the articles discussing CasioSoft necessarily indicated that the merchandiser was required to scan into the store when the merchandiser entered the store. In one of the articles, it indicated a date as early as 1996 for portions of the CasioSoft system. If the Examiner was correct, and if it turned out that relevant portions were in the system as early as 1996, that information would certainly affect my client's desire to pursue the patent claims even if I could show the Examiner that the references cited should not be read as broadly as he was attempting to read them.

Docket No. 1001.014

Because Applicant has filed the continuation application as suggested by the Examiner to claim the priority of the copending application, which establishes priority back to November 16, 1999 as originally intended, a majority of the CasioSoft publication references (the ones in and after 2000) are no longer applicable to the claims.

In the "interview" I told the Examiner that if it was needed after the March 22, 2006 in-person interview with him, I planned on obtaining an affidavit from Mr. Scott and Mr. Taras to support my reading of the references. Because the references asserted by the Examiner do not anticipate or make obvious what is claimed, however, and a majority of those publications are no longer suitable as prior art, it is my belief that those affidavits will not be needed. **During my brief discussion with Mr. Scott, I did not mention any pending patent or either of Applicant's pending applications or Applicant's invention or prosecution.** The brief discussion was solely limited to what the CasioSoft product did as it was referenced in the year 2000 articles.

Pursuant to the Examiner's request, what Applicant has "gleaned" is included in full in the Statement above. No other information was collected. Applicant was simply looking for confidence that Applicant would not be misleading the Office with arguments that CasioSoft's system was lacking an important feature of Applicant's disclosure. Applicant has not made any other contacts with any former CasioSoft employees. CasioSoft no longer exists, and no longer has any products.

Docket No. 1001.014

CONCLUSION

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 50-3545. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: March 21, 2006

By Kenneth C. Booth
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